

NOTICE OF PROPOSED ACTION

PROCESSOR AND RECYCLING CENTER PERMANENT REGULATIONS

TITLE 14. NATURAL RESOURCES DIVISION 2. DEPARTMENT OF CONSERVATION CHAPTER 5. DIVISION OF RECYCLING

NOTICE IS HEREBY GIVEN that the Department of Conservation (Department), Division of Recycling (Division) proposes to adopt amendments to the California Code of Regulations (CCR). Commencing with Subchapter 1, Chapter 5, Division 2, Title 14 of the CCR, the Division will propose permanent regulations, after the consideration of all comments, objections or recommendations. The proposed amendments are as follows:

SUBCHAPTER 1. DEFINITIONS

§ 2000. DEFINITIONS

Subsection 2000 (a) (47.5): This subsection has been added to the regulations. It is necessary to define “weight ticket” to mean the written record of the accurately determined weight by material type.

SUBCHAPTER 2. GENERAL REQUIREMENTS

Article 4. General Accounting Requirements

§ 2090. REPORTS, NOTICES AND CLAIMS SUBMITTED TO THE DIVISION

Figure 8: This figure has been amended to be consistent with the requirements for the Consolidated Shipping Report Form in Section 2090 (f) (3) (B) (1 to 20).

§ 2105. PERSONS CERTIFIED AS BOTH PROCESSORS AND RECYCLING CENTERS (DUAL CERTIFIED ENTITIES).

Subsection 2105(b): This amendment is necessary to revise the shipping report number from DR-6 (01/02) to DR-6 (10/04) because the shipping report has been revised. This section has also been revised to state that the dual certified entity shall prepare a weight ticket indicating the log and receipt period or the first and last receipt number for the shipping period.

Subsection 2105 (c): This amendment is necessary to revise the shipping report number from DR-6 (01/02) to DR-6 (10/04) because the shipping report has been revised.

§ 2110. CANCELED MATERIALS AND REJECTED CONTAINERS

Subsection 2110 (c): This amendment is necessary to revise section 2430 (a)(6) to 2430 (a) (3) because the numbering for this section has been changed due to deletions and revisions of the text.

SUBCHAPTER 5. PROCESSORS

Article 1. Requirements for Processors

§ 2401. LOAD INSPECTION REQUIREMENTS

Subsection 2401 (e): has been added to Section 2401. This text was moved from subsection 2430 (a) (1) to subsection 2401 (e) because it discusses processor load inspection requirements.

Article 3. Accounting and Reporting Requirements

§ 2420. Recordkeeping

Subsection 2420 (b)(1): This subsection has been revised to require processors to prepare weight tickets for each individual load of material subject to the Act delivered to the processor. The processor is also required to prepare weight tickets for nonredeemable material delivered to the processor. This revision will enable the Department to track each load of material delivered to the processor.

Subsection 2420 (b) (2) –(4): These subsections have been added to the regulations to require the weight tickets prepared by the processors to comply with the requirements of Division 5 of the Business and Professions Code, commencing with section 12001 governing weighmaster certificates. The weight ticket is also required to state whether California Redemption Value is being claimed for the material.

Subsection 2420 (b) (5): This subsection has been added to the regulations to require each load of beverage container material purchased by the processor but not received at the processor's facility to comply with the provisions of subsection 2420 (b) (4). This revision will enable the Department to track loads of material purchased by the processor and not delivered to the processor's facility.

Subsection 2420 (b) (6): This sentence has been numbered to subsection (6) for clarity in this section.

§ 2425. REPORTING

Subsection 2425 (a): This amendment is necessary to remove the phrase "twice monthly" and the phrase "four times per" from the text because the Department

will now allow processors to submit the processor invoice up to eight times per calendar month by adding the text “eight times per calendar”.

Subsection 2425 (a) (1): This amendment is necessary to state that all reports shall be submitted no later than the 10th day after the last day of the reporting month. The examples in this section have been deleted because they are no longer necessary.

Subsection 2425 (a) (2): This amendment is necessary to delete this subsection because it is no longer necessary.

New Subsection 2425 (a) (2): This amendment is necessary to allow processors to submit no more than two supplemental processor invoices, per original processor invoice, provided they are submitted no later than forty-five days from certain specified events.

Subsection 2425 (a) (2) (A): This amendment is necessary to allow the processor to submit two amended supplemental processor invoices within forty-five days from the due date of the original processor invoice, if the amendment is for new shipping reports not previously submitted with the original processor invoice being supplemented.

Subsection 2425 (a) (3): This amendment is necessary to delete this subsection because it is no longer necessary.

New Subsection 2425 (a) (3): This amendment is necessary to allow processors to submit no more than two amended processor invoices, per original processor invoice, provided they are submitted no later than ninety days after the due date of the original processor invoice being amended.

Subsection 2425 (a) (4): This amendment is necessary to delete this subsection because it is no longer necessary.

Subsection 2425 (a) (5): This amendment is necessary to delete this subsection because it is no longer necessary.

Subsection 2425 (a) (6): This subsection has been renumbered to subsection 2425 (a) (4) due to the deletion of subsections 2425 (a) (4) and (5).

Subsection 2425 (e): This subsection has been amended to delete the word “The” and replace it with “Each” to be consistent with the first sentence of this paragraph.

Subsection 2425 (e) (3): This subsection has been amended to revise the “Glass Shipped Box” to “QGIP” (Quality Glass Incentive Payment) Box to be consistent with the revised shipping report.

Subsection 2425 (e) (10): This subsection has been added to require the shipping reports prepared or completed by the processor to include the name of the driver delivering the load of material to the processor. The addition of this information will enable the Department to verify who is transporting the material to the processor.

Subsection 2425 (e) (11): This subsection has been added to require the shipping report to include the employer of the driver delivering the load of material to the processor or the name of the freight carrier used to deliver the load of material to the processor.

Subsection 2425 (e) (12): This subsection has been added to require the shipping reports prepared or completed by the processor to include the vehicle license number and state of issuance of the vehicle delivering the material to the processor. The addition of this information will enable the Department to verify who is transporting material to the processor.

Subsections 2425 (e) (10), (11) and (12): These subsections have been renumbered to subsections 2425 (e) (13), (14) and (15) due to the addition of new subsections 2425 (e) (10), (11), and (12).

Subsection 2425 (e) (15): This subsection has been amended to add the phrase “printed name and” because the signature of the authorized representative of the processor is not always legible.

§ 2430. PAYMENTS

Subsections 2430 (a) (1) – (4): The portion of subsection 2430 (a) (1) dealing with processor inspection has been moved to new subsection 2401(e) because it discusses processor load inspection requirements. The rest of these subsections have been deleted because they have been replaced with new subsections 2430 (a) (1) (A)-(F).

New Subsections 2430 (a) (1) (A) – (F): These subsections are necessary to require processors to weigh and inspect all loads received from recycling centers before completing shipping reports. The processors must verify all information shown on the shipping report, record the received weight of the containers, sign and date the shipping report, calculate the refund value payment, calculate the processing payment and calculate the administrative fee.

Subsection 2430 (a) (5): This subsection has been renumbered to subsection 2430 (a) (2) due to the deletion of subsections 2430 (a) (1) – (4). The phrase “in addition to the provisions of this section” has been added to this subsection to clarify that processors must comply with this section and the additional requirements listed in this subsection.

Subsection 2430 (a) (6): This subsection has been renumbered to subsection 2430 (a) (3) due to the deletion of subsections 2430 (a) (1) – (4).

Subsection 2430 (a) (7): This subsection has been renumbered to subsection 2430 (a) (4) due to the deletion of subsections 2430 (a) (1) – (4).

Subsections 2430 (b) (2) (A) 1. and 2430 (b) (2) (A) 2.: These subsections have been amended to add the phrase “in effect on the date the material was received” to state that the segregated value per pound and the applicable processing payment for curbside programs will be at the rate in effect on the date the material was received.

Subsections 2430 (c) (2) (A) 1. and 2430 (c) (2) (A) 2.: These subsections have been amended to add the phrase “in effect on the date the material was received” to state that the segregated value per pound and the applicable processing payment for dropoff or collection programs, and community service programs will be at the rate in effect on the date the material was received.

SUBCHAPTER 6. RECYCLING CENTERS

Article 3. Accounting and Reporting Requirements.

§ 2525. RECORDKEEPING

Subsections 2525 (l)(1-12): These subsections have been added to require recycling centers to prepare weight tickets for each load of material subject to the Act delivered by a dropoff or collection program, community service program, curbside program or another recycling center. The recycling center is also required to prepare weight tickets for nonredeemable material delivered to the recycling center by a dropoff or collection program, community service program, curbside program or another recycling center. This revision will enable the Department to track each load of material delivered to the recycling center. This subsection lists all of the information required to be contained on each weight ticket prepared by the recycling center for material received from dropoff or collection programs, community service programs, curbside programs, or other recycling centers.

§ 2530. REPORTING

Subsection 2530 (e) (4)(C) and (D): These subsections have been deleted because they are no longer necessary. The processing payment is an entitlement to the recycling center. It is calculated by the Department’s payment and report processing system and it is based on the refund value payment.

Subsection 2530 (e) (6): This amendment is necessary to add the phrase “printed name and” to the information required on the shipping report because

the signature of an authorized representative of the recycling center is not always legible.

Subsection 2530 (f) (6) and (7): These subsections have been amended to add the phrase “printed name and” to the information required on the shipping report because the signature of the shipper or an authorized representative of the shipper and the signature of the authorized representative of the recycling center are not always legible.

Subsection 2530 (f) (11): This subsection has been amended to revise the “Glass Shipped Box” to “QGIP” (Quality Glass Incentive Payment) Box. This will make the text consistent with how the box is identified on the shipping report.

§ 2540. RECEIPT OF FUNDS

Subsection 2540 (b): This subsection has been revised to change the reference from section 2430(a)(2) to subsection 2430 (a) (1) (D), (E) and (F) because section 2430 has been amended and the reference changed.

SUBCHAPTER 11.5 QUALITY GLASS INCENTIVE PAYMENTS

Article 1. General Requirements

§ 2850. QUALITY GLASS INCENTIVE PAYMENTS

Subsection 2850 (b): This amendment is necessary to revise the shipping report number from DR-6 (01/02) to DR-6 (10/04) because the shipping report has been revised.

Shipping Report: This amendment is necessary to revise the shipping report. The processing payment information has been deleted from the shipping report. This payment is an entitlement and it is calculated by the Department’s payment and report processing system and is based on the refund value payment. The subtotal column is no longer necessary since the processing payment information from the top portion of the shipping report has been eliminated. The driver’s name, employer or freight carrier, vehicle license number and state have been added to the shipping report, since these items have been added as a requirement to the text of the processor reporting regulations. The instruction box on how to fill out the Quality Glass Incentive Payment (QGIP) box has been removed because it is no longer necessary. This instruction box was a narrative description of how to fill in the QGIP box on the shipping report. This information was merely descriptive and is not needed on the shipping report. Regulatory text sections 2425(e)(3) and 2530(f)(11) clarify what to record in the QGIP box on the shipping report.

INFORMATION IS AVAILABLE UPON REQUEST. Copies of the text, the express terms of the proposed action, the initial statement of reasons, and all of

the information upon which this proposal is based are available upon request and at our website: www.conservation.ca.gov . The rulemaking file is available to the public for review during normal business hours at the Division of Recycling, 801 "K" Street, 19th Floor, Sacramento, California. Please contact the agency contact person, Karen Denz, at (916) 322-1899. General or substance questions regarding this file may also be directed to Karen Denz. The backup agency contact person for this rulemaking file is Eloisa Hernandez, who may be contacted at (916) 327-2757. Any technical inquiries shall be referred to the appropriate staff to ensure a prompt response.

SUBMITTING WRITTEN COMMENTS. The written comment period permits any interested person, or their authorized representative, to submit written comments addressing the proposed amendments to the Department. Written comments, which offer a recommendation and/or objection, or support the proposed amendment, should indicate the amended section to which the comment or comments are directed. Written comments should be sent to the Department and received before the close of the public comment period, no later than 5:00 p.m. on March 7, 2005. Additionally, we request that written comments reference a subsection or section of the proposed action. Written comments received by the Department after the close of the public comment period will not be responded to in the rulemaking file. Submit your written comments to: Karen Denz, Processor and Recycling Center Permanent Regulations, Department of Conservation, Division of Recycling, 801 "K" St., MS 19-02, Sacramento, CA 95814. During the 45-day comment period, written comments may also be E-mailed to: DORRegulations@consrv.ca.gov, or faxed to (916) 327-8668.

PUBLIC HEARING. A public hearing has not been scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

AVAILABILITY OF MODIFIED TEXT. Following the written comment period, and the hearing, if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the full modified text with the changes clearly indicated shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Requests for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Under the existing law, the California Beverage Container Recycling and Litter Reduction Act (Act) encourages recycling of specific beverage containers

and the reduction of littered beverage containers along the State's highways. Under this Act, the Department, through the Division of Recycling (Division), is responsible for administering the Act and protecting the integrity of the California Beverage Container Recycling Fund (Fund).

"Weight ticket" has been added to the definitions and the requirements for a processor's weight ticket and a recycling center's weight ticket have been described in detail in the processor recordkeeping section and the recycling center recordkeeping section. These new requirements will allow the Department to track loads of beverage container material types delivered to processors and recycling centers and will require the corresponding shipping report number for the load of material to be on the weight ticket and to indicate if California Redemption Value (CRV) is being claimed for the load.

There are a high number of reporting errors on the shipping reports due to certified recyclers calculating and requesting incorrect processing payments. These regulations remove the requirement for recycling centers to calculate processing payments. The requirements for recycling centers have been replaced with language requiring the processors to calculate the processing payments based on the applicable redemption weight.

These regulations will allow certified processors to submit a second supplemental and a second amended processor invoice per material type, per original processor invoice. Currently, processors are allowed to submit one amended and one supplemental processor invoice per material type per original reporting period.

The shipping report (DR-6) has been amended to reflect the changes to the text of the regulations.

AUTHORITY

These regulations are submitted pursuant to the Department's authority under Public Resources Code Sections, 14530.5 (b) and 14536.

REFERENCE

Public Resources Code Sections, 14518.5, 14519.5, 14537, 14538, 14539, 14549.1, 14550, 14551, 14552, 14553, 14572, and 14573.5.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: The Department has determined that adoption of these proposed regulations do not impose any new mandates on local agencies or local school districts.

Cost or savings to any state agency: No savings or additional expenses to state agencies are identified because the implementation of statute is financed by the beverage container recycling program itself.

Costs to any local agency or school district which must be reimbursed in accordance with Government Code §§17500 through 17630: The Department has determined that the adoption of these proposed regulations does not impose any additional cost obligations on local agencies or on local school districts.

Other non-discretionary costs or savings imposed upon local agencies: No other non-discretionary costs or savings to local agencies have been identified.

Costs or savings in federal funding to the State: No costs or savings in federal funding to the state have been identified.

Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: The Department has determined that no significant impact to California businesses will result from the adoption of this proposed regulatory language.

These proposed regulations serve to clarify and make specific existing statutory requirements.

Potential cost impact on private persons or directly affected businesses: Any cost impact that a representative private person or business may incur in reasonable compliance with the proposed action can be mitigated.

Creation or elimination of jobs in California: The Department has determined that the adoption of these regulations will not:

Create or eliminate jobs within California;

Create new nor eliminate existing businesses within California;

Expand businesses currently doing business in California.

Significant effect on housing costs: The Department has determined that the adoption of these regulations will have no significant effect on housing costs.

Effects on small businesses: The Department has determined that the adoption of these proposed regulations will not affect small businesses. These proposed regulations serve to clarify and make specific existing requirements contained in statute. These proposed regulations do not mandate actions upon private persons or businesses, but rather clarifies existing statutory mandates.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative that it considers or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action. The Department has not identified any adverse impacts resulting from these proposed regulations.

FINAL STATEMENT OF REASONS

A copy of the final statement of reasons may be obtained, when it becomes available, from the agency contact person or backup contact person identified in this notice.

ACCESSING INFORMATION REGARDING THIS FILE ON THE DEPARTMENT OF CONSERVATION WEBSITE

The text of the proposed regulations, the Notice of Proposed Action, the Initial Statement of Reasons and the Final Statement of Reasons, when available for review, will be on the Department of Conservation website at:

www.conservation.ca.gov.